

IMPORTANT INFORMATION FOR PHYSICIANS TO UNDERSTAND BEFORE RESPONDING TO QUESTIONS ON “CAUSATION” IN WORKERS’ COMPENSATION CASES

The Workers’ Compensation law changed significantly regarding injuries that occurred on or after July 1, 2014. One of the changes was the new and different legal criteria in your assessment of the medical aspects of your opinion on causation. According to the Tenn. Code Ann. Sect. 50-6-102(13):

"Injury" and "personal injury" mean an injury by accident, a mental injury, occupational disease including diseases of the heart, lung and hypertension, or cumulative trauma conditions including hearing loss, carpal tunnel syndrome or any other repetitive motion conditions, arising primarily out of and in the course and scope of employment, that causes death, disablement or the need for medical treatment of the employee; provided, that:

(A) An injury is "accidental" only if the injury is caused by a specific incident, or set of incidents, arising primarily out of and in the course and scope of employment, and is identifiable by time and place of occurrence, and shall not include the aggravation of a preexisting disease, condition or ailment unless it can be shown to a reasonable degree of medical certainty that the aggravation arose primarily out of and in the course and scope of employment;

(B) An injury "arises primarily out of and in the course and scope of employment" only if it has been shown by a preponderance of the evidence that the employment contributed more than fifty percent (50%) in causing the injury, considering all causes;

(C) An injury causes death, disablement or the need for medical treatment only if it has been shown to a reasonable degree of medical certainty that it contributed more than fifty percent (50%) in causing the death, disablement or need for medical treatment, considering all causes;

(D) "Shown to a reasonable degree of medical certainty" means that, in the opinion of the physician, it is more likely than not considering all causes, as opposed to speculation or possibility;

(E) The opinion of the treating physician, selected by the employee from the employer's designated panel of physicians pursuant to § 50-6-204(a)(3), shall be presumed correct on the issue of causation but this presumption shall be rebuttable by a preponderance of the evidence;

It is important to understand that you are not being asked to make a legal determination of whether the injury was compensable. Your role is to provide your medical opinion on the questions in this part of the legislation; i.e., in your “medical opinion” is it more likely than not, considering all causes, as opposed to speculation or possibility that the injury contributed more than 50% in causing the death, disablement or need for medical treatment, considering all causes. Please make every effort on your first visit to address “causation.” This may not be possible if you need additional information, such as a job description, previous treatment notes, or first report of injury to make your decision, but it is in the best interest of your patient to

make the determination as soon as possible, and not that your medical opinion on causation is “undetermined.”

If you are asked to explain and issue a report regarding causation, the following information may be helpful:

1. Description of the diagnosis (or diagnoses) both in medical and lay terms, including the appropriate ICD code.
2. A complete and detailed description of the reported injury including the mechanism, time, place, and (in the case of cumulative trauma conditions) number, duration or frequency. For injuries with major violence, causation is rarely in dispute and the statement of the mechanism of injury is usually sufficient. For example: “sustained a fracture to the calcaneus as a result of a fall of 20 feet from a roof.”
3. For cases in which the incident would not be judged to injure most people, consider whether there were symptoms, pre-existing conditions, co-morbidities, prior injuries, previous surgeries or events unrelated to employment that might be important contributing factors. In the absence of other contributing factors, consider whether the start of symptoms while working can answer the questions of why the symptoms started in relationship to work. For example, a first episode of angina that occurred at work (“when”) does not necessarily mean that the work caused the later diagnosed coronary artery disease (“why”).
4. Consider whether the need for treatment was an aggravation (a permanent and documented anatomic change) of an underlying condition. Did a minor bruise to the shin cause the need for a total knee replacement when the patient had underlying three compartment arthritis, even if the arthritis had not been “symptomatic” prior to the bruise?
5. When all this information is taken together, is it more likely than not, to a reasonable degree of medical certainty, that this described injury was the cause of the need for treatment? Consider the situation which a person fell off a curb. Did the fall from a curb resulting in a fractured ankle that required surgery cause the need for long term work-related treatment for diabetes?

This change in the definition of an injury is a significant change in the workers’ compensation law. It is intended to make the law fairer and resolve disputes as early in the process as possible, but it is a significant change. Your assistance and understanding is required. If you have questions about this issue, please contact the Workers’ Compensation Division Medical Director at 615-532-8700 or Robert.B.Snyder@tn.gov.